

AMENDED IN ASSEMBLY JANUARY 12, 2004

AMENDED IN ASSEMBLY AUGUST 28, 2003

AMENDED IN ASSEMBLY AUGUST 27, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1784

Introduced by Assembly ~~Member Wolk~~ *Members Wolk and
Frommer*

(Coauthors: Assembly Members Bates, Canciamilla, Chu, Correa,
Daucher, Dutra, ~~Frommer~~, Garcia, Shirley Horton, Nakano,
Negrete McLeod, Richman, Salinas, and Wiggins)

July 15, 2003

An act to amend Section 87102 and to add Section 87102.7 to 86205
of, and to add Sections 86119 and 89518.5 to, the Government Code,
relating to the Political Reform Act of 1974, and declaring the urgency
thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1784, as amended, Wolk. Political Reform Act of 1974:
conflict of interest: ~~Member of the Legislature~~: lobbying interests.

~~Existing law prohibits a Member of the Legislature from making,
participating in making or in any way attempting to use his or her
official position to influence specified governmental decisions in which
he or she knows or has reason to know he or she has a financial interest.
Existing law imposes administrative penalties on Members of the
Legislature who violate this prohibition.~~

~~This bill would prohibit a Member of the Legislature from making,
participating in making, or in any way attempting to use his or her~~

~~official position to influence any decision on any matter in connection with which a lobbyist, lobbying firm, or lobbyist employer who has attempted to influence that Member in regard to that matter has, or within the prior 12 months had, a business relationship with the Member. The bill would require notification of the business relationship by the lobbyist, lobbying firm, or lobbyist employer prior to an attempt to influence the Member, and would make knowledge of that notice by the Member a prerequisite to finding a violation of the prohibition by the Member, as specified. The bill would apply the prohibition only with regard to those business relationships entered into on or after July 1, 2003. The bill would define business relationship to include circumstances where the Member or the Member's controlled committee, or both, paid the lobbyist or lobbying firm to perform services in connection with the Member's campaign, or to provide legal or other professional services relating to the Member's status or activities as an elected official, as specified.~~

Existing law requires a lobbyist to register with the Secretary of State and prohibits a lobbyist from engaging in certain activities.

This bill would, effective January 1, 2005, prohibit a lobbyist or lobbying firm, during any period of time that the lobbyist or lobbying firm, or any other business entity in which the lobbyist is an owner, officer, or employee, has a contractual relationship, as defined, with the controlled campaign committee of an elected state officer, other than a Member of the Legislature, or the 6-month period following termination of that contract, from contacting the officer or his or her staff for the purpose of influencing legislative or administrative action. The bill also would, effective January 1, 2005, prohibit a lobbyist or lobbying firm, during any period of time that the lobbyist or lobbying firm, or any other business entity in which the lobbyist is an owner, officer, or employee, has a business relationship, as defined, with an elected state officer, other than a Member of the Legislature, from contacting the officer or his or her staff for the purpose of influencing legislative or administrative action. The bill would, effective January 1, 2005, require a lobbyist or lobbying firm that enters into either a contractual relationship or a business relationship, as described above, to notify the Secretary of State within 14 days of establishing that relationship.

Existing law prohibits the use of campaign funds to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except as specified.

This bill would prohibit a candidate for elective state office and his or her controlled campaign committee from entering into a contract or agreement that includes a payment that is contingent upon the election of the candidate to office.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

The bill would ~~impose~~ *create* a state-mandated local program by ~~making a Member of the Legislature, lobbyists, lobbying firms, and lobbyist employers subject to administrative, civil, and criminal penalties for violating~~ *imposing these penalties on persons who violate* the provisions of this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a $\frac{2}{3}$ vote.

This bill would incorporate additional changes in Sections 86119 and 86205 of the Government Code proposed by AB 1784 that would become operative only if AB 1784 and this bill are both chaptered and become effective on or before January 1, 2005, and this bill is chaptered last.

The bill would provide that it would not become operative unless AB 1784 is enacted and takes effect on or before January 1, 2005.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 87102 of the Government Code is~~
2 ~~amended to read:~~

~~87102. The requirements of Section 87100 are in addition to the requirements of Articles 2 (commencing with Section 87200) and 3 (commencing with Section 87300) and any Conflict of Interest Code adopted thereunder. Except as provided in Sections 87102.5 and 87102.7, the remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000) shall not be applicable to elected state officers for violations or threatened violations of this article.~~

~~SEC. 2. Section 87102.7 is added to the Government Code, to read:~~

~~87102.7. (a) (1) A Member of the Legislature may not make, participate in making, or in any way attempt to use his or her official position to influence any legislative action in connection with which a lobbyist, lobbying firm, or lobbyist employer who has attempted to influence that Member in regard to that matter has, or within the prior 12 months had, a business relationship with the Member.~~

~~(2) Prior to attempting to influence a Member of the Legislature with whom a lobbyist, lobbying firm, or lobbyist employer has a business relationship as defined in subdivision (b), the lobbyist, lobbying firm, or lobbyist employer shall provide written notification to that Member that the business relationship exists between that individual or entity and the Member. No Member of the Legislature shall be in violation of this section unless he or she has received and read, or received and been personally apprised of the contents of, the written notification. A lobbyist, lobbying firm, or lobbyist employer who fails to provide the written notification prior to attempting to influence a Member of the Legislature pursuant to this subdivision shall be subject to the remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000).~~

~~(b) For the purposes of this section, a business relationship between a member and a lobbyist, lobbying firm, or lobbyist employer exists in either of the following circumstances:~~

~~(1) A Member of the Legislature or the Member's controlled committee, or both, has contracted for or paid the lobbyist, lobbying firm, or lobbyist employer, or agent or employee of the lobbyist, lobbying firm, or lobbyist employer, to act as a campaign manager, campaign consultant, campaign fundraiser, or other campaign professional providing services related to campaign or~~

1 fundraising strategy for the Member or his or her controlled
2 committees, or both.

3 (2) Both of the following have occurred:

4 (A) A Member of the Legislature or the Member's controlled
5 committee, or both, has contracted for or paid the lobbyist,
6 lobbying firm, or lobbyist employer, or agent or employee of the
7 lobbyist, lobbying firm, or lobbyist employer, to provide legal or
8 other professional services relating to the Member's status or
9 activities as an elected official. For the purposes of this paragraph,
10 services include, but are not limited to, advice and assistance
11 regarding the Member's filing obligations, conflicts of interest,
12 ethics, and the other requirements and prohibitions set forth in this
13 title.

14 (B) During any quarter of the calendar year, the services
15 provided during that quarter have a cumulative fair market value
16 that equals or exceeds one thousand dollars (\$1,000). There shall
17 be a new one thousand dollar (\$1,000) limit for each quarter of the
18 calendar year.

19 (c) For the purposes of this section, a controlled committee
20 does not include a controlled committee formed for the purpose of
21 supporting or opposing a ballot measure.

22 (d) This section applies only to business relationships entered
23 into on or after July 1, 2003.

24 (e) Upon identification of a conflict of interest or potential
25 conflict of interest pursuant to this section, a Member of the
26 Legislature shall recuse himself or herself from voting on the
27 matter, or otherwise acting in violation of this section. The
28 Member shall, within 14 days of the first recusal, send a letter
29 disclosing the nature of the business relationship giving rise to the
30 potential conflict to the Chief Clerk of the Assembly or the
31 Secretary of the Senate, as appropriate, to be printed in the journal
32 of the appropriate house.

33 (f) The remedies provided in Chapters 3 (commencing with
34 Section 83100) and 11 (commencing with Section 91000) are
35 applicable to Members of the Legislature for violations or
36 threatened violations of this section.

37 SEC. 3.— It is the intent of the Legislature that if this act is found
38 invalid, any attorney's fees or costs incurred be paid from the
39 General Fund and that the budget of the Fair Political Practices
40 Commission not be reduced accordingly.

1 ~~SEC. 4.—~~

2 *SECTION 1. Section 86119 is added to the Government Code,*
3 *to read:*

4 *86119. (a) A lobbyist or lobbying firm that enters into a*
5 *contractual relationship, as defined in paragraph (2) of*
6 *subdivision (g) of Section 86205, with the controlled campaign*
7 *committee of an elected state officer, other than a Member of the*
8 *Legislature, shall notify the Secretary of State within 14 days of*
9 *executing the contract.*

10 *(b) A lobbyist or lobbying firm that enters into a business*
11 *relationship, as defined in paragraph (2) of subdivision (h) of*
12 *Section 86205, with an elected state officer, other than a Member*
13 *of the State Legislature, shall notify the Secretary of State within*
14 *14 days of establishing the relationship.*

15 *SEC. 1.5. Section 86119 is added to the Government Code, to*
16 *read:*

17 *86119. (a) A lobbyist or lobbying firm that enters into a*
18 *contractual relationship, as defined in paragraph (3) of*
19 *subdivision (g) of Section 86205, with the controlled campaign*
20 *committee of an elected state officer, other than a Member of the*
21 *Legislature, shall notify the Secretary of State within 14 days of*
22 *executing the contract.*

23 *(b) A lobbyist or lobbying firm that enters into a business*
24 *relationship, as defined in paragraph (3) of subdivision (h) of*
25 *Section 86205, with an elected state officer, other than a Member*
26 *of the Legislature, shall notify the Secretary of State within 14 days*
27 *of establishing the relationship.*

28 *SEC. 2. Section 86205 of the Government Code is amended to*
29 *read:*

30 *86205. No lobbyist or lobbying firm shall:*

31 *(a) Do anything with the purpose of placing any elected state*
32 *officer, legislative official, agency official, or state candidate*
33 *under personal obligation to the lobbyist, the lobbying firm, or the*
34 *lobbyist's or the firm's employer.*

35 *(b) Deceive or attempt to deceive any elected state officer,*
36 *legislative official, agency official, or state candidate with regard*
37 *to any material fact pertinent to any pending or proposed*
38 *legislative or administrative action.*

1 (c) Cause or influence the introduction of any bill or
2 amendment thereto for the purpose of thereafter being employed
3 to secure its passage or defeat.

4 (d) Attempt to create a fictitious appearance of public favor or
5 disfavor of any proposed legislative or administrative action or to
6 cause any communication to be sent to any elected state officer,
7 legislative official, agency official, or state candidate in the name
8 of any fictitious person or in the name of any real person, except
9 with the consent of ~~such~~ *that* real person.

10 (e) Represent falsely, either directly or indirectly, that the
11 lobbyist or the lobbying firm can control the official action of any
12 elected state officer, legislative official, or agency official.

13 (f) Accept or agree to accept any payment in any way
14 contingent upon the defeat, enactment, or outcome of any
15 proposed legislative or administrative action.

16 (g) *(1) Contact an elected state officer, other than a Member*
17 *of the Legislature, or his or her staff, for the purpose of influencing*
18 *legislative or administrative action, during any period of time that*
19 *the lobbyist or lobbying firm, or any other business entity in which*
20 *the lobbyist is an owner, officer, or employee, has a contractual*
21 *relationship with the officer's controlled campaign committee, and*
22 *during the six-month period following termination of that*
23 *contract.*

24 *(2) For the purposes of paragraph (1), "contractual*
25 *relationship" means any contract or agreement between a lobbyist*
26 *or lobbying firm, or any other business entity in which the lobbyist*
27 *is an owner, officer, or employee, and the controlled campaign*
28 *committee of an elected state officer, other than a Member of the*
29 *Legislature, pursuant to which the lobbyist, lobbying firm, or*
30 *business entity in which the lobbyist is an owner, officer, or*
31 *employee, is entitled to compensation of one thousand dollars*
32 *(\$1,000) or more per quarter, or four thousand dollars (\$4,000) or*
33 *more per year.*

34 (h) *(1) Contact an elected state officer, other than a Member*
35 *of the Legislature, or his or her staff, for the purpose of influencing*
36 *legislative or administrative action, during any period of time that*
37 *the lobbyist or lobbying firm, or any other business entity in which*
38 *the lobbyist is an owner, officer, or employee, has a business*
39 *relationship with the elected state officer.*

1 (2) *For the purposes of paragraph (1), “business relationship”*
2 *means any economic relationship valued at five hundred dollars*
3 *(\$500) or more between a lobbyist or lobbying firm, or any other*
4 *business entity in which the lobbyist is an owner, officer, or*
5 *employee, and an elected state officer, other than a Member of the*
6 *Legislature, that is reportable on the officer’s statement of*
7 *economic interests. The term “business relationship” shall be*
8 *deemed to encompass the entire period of time from the date the*
9 *business relationship became reportable on the officer’s next*
10 *statement of economic interests and for the 12 consecutive months*
11 *following that date.*

12 SEC. 2.5. *Section 86205 of the Government Code is amended*
13 *to read:*

14 86205. No lobbyist or lobbying firm shall:

15 (a) Do anything with the purpose of placing any elected state
16 officer, legislative official, agency official, or state candidate
17 under personal obligation to the lobbyist, the lobbying firm, or the
18 lobbyist’s or the firm’s employer.

19 (b) Deceive or attempt to deceive any elected state officer,
20 legislative official, agency official, or state candidate with regard
21 to any material fact pertinent to any pending or proposed
22 legislative or administrative action.

23 (c) Cause or influence the introduction of any bill or
24 amendment thereto for the purpose of thereafter being employed
25 to secure its passage or defeat.

26 (d) Attempt to create a fictitious appearance of public favor or
27 disfavor of any proposed legislative or administrative action or to
28 cause any communication to be sent to any elected state officer,
29 legislative official, agency official, or state candidate in the name
30 of any fictitious person or in the name of any real person, except
31 with the consent of ~~such~~ *that* real person.

32 (e) Represent falsely, either directly or indirectly, that the
33 lobbyist or the lobbying firm can control the official action of any
34 elected state officer, legislative official, or agency official.

35 (f) Accept or agree to accept any payment in any way
36 contingent upon the defeat, enactment, or outcome of any
37 proposed legislative or administrative action.

38 (g) *(1) Contact a Member of the Legislature, his or her staff,*
39 *or the staff of any committee the Member chairs, for the purpose*
40 *of influencing legislative action, during any period of time that the*

1 lobbyist or lobbying firm, or any other business entity in which the
2 lobbyist is an owner, officer, or employee, has a contractual
3 relationship with the Member's controlled campaign committee,
4 and during the six-month period following termination of that
5 contract.

6 (2) Contact an elected state officer, other than a Member of the
7 Legislature, or his or her staff, for the purpose of influencing
8 legislative or administrative action, during any period of time that
9 the lobbyist or lobbying firm, or any other business entity in which
10 the lobbyist is an owner, officer, or employee, has a contractual
11 relationship with the officer's controlled campaign committee, and
12 during the six-month period following termination of that
13 contract.

14 (3) For the purposes of this subdivision, "contractual
15 relationship" means any contract or agreement between a lobbyist
16 or lobbying firm, or any other business entity in which the lobbyist
17 is an owner, officer, or employee, and the controlled campaign
18 committee of a Member of the Legislature or other elected state
19 officer pursuant to which the lobbyist, lobbying firm, or business
20 entity in which the lobbyist is an owner, officer, or employee, is
21 entitled to compensation of one thousand dollars (\$1,000) or more
22 per quarter, or four thousand dollars (\$4,000) or more per year.

23 (h) (1) Contact a Member of the Legislature, his or her staff,
24 or the staff of any committee the Member chairs, for the purpose
25 of influencing legislative action, during any period of time that the
26 lobbyist or lobbying firm, or any other business entity in which the
27 lobbyist is an owner, officer, or employee, has a business
28 relationship with the Member.

29 (2) Contact an elected state officer, other than a Member of the
30 Legislature, or his or her staff, for the purpose of influencing
31 legislative or administrative action, during any period of time that
32 the lobbyist or lobbying firm, or any other business entity in which
33 the lobbyist is an owner, officer, or employee, has a business
34 relationship with the elected state officer.

35 (3) For the purposes of this subdivision, "business
36 relationship" means any economic relationship valued at five
37 hundred dollars (\$500) or more between a lobbyist or lobbying
38 firm, or any other business entity in which the lobbyist is an owner,
39 officer, or employee, and a Member of the Legislature or other
40 elected state officer that is reportable on the official's statement of

1 *economic interests. The term “business relationship” shall be*
2 *deemed to encompass the entire period of time from the date the*
3 *business relationship became reportable on the official’s next*
4 *statement of economic interests and for the 12 consecutive months*
5 *following that date.*

6 *SEC. 3. Section 89518.5 is added to the Government Code, to*
7 *read:*

8 *89518.5. No candidate for elective state office or his or her*
9 *controlled campaign committee shall enter into a contract or*
10 *agreement that includes a payment that is contingent upon the*
11 *election of the candidate to office.*

12 *SEC. 4. Section 1.5 of this bill incorporates amendments to*
13 *Section 86119 of the Government Code proposed by both this bill*
14 *and AB 1785. It shall only become operative if (1) both bills are*
15 *enacted and become effective on or before January 1, 2005, (2)*
16 *each bill amends Section 86119 of the Government Code, and (3)*
17 *this bill is enacted after AB 1785, in which case Section 1 of this*
18 *bill shall not become operative.*

19 *SEC. 5. Section 2.5 of this bill incorporates amendments to*
20 *Section 86205 of the Government Code proposed by both this bill*
21 *and AB 1785. It shall only become operative if (1) both bills are*
22 *enacted and become effective on or before January 1, 2005, (2)*
23 *each bill amends Section 86205 of the Government Code, and (3)*
24 *this bill is enacted after AB 1785, in which case Section 2 of this*
25 *bill shall not become operative.*

26 *SEC. 6. No reimbursement is required by this act pursuant to*
27 *Section 6 of Article XIII B of the California Constitution because*
28 *the only costs that may be incurred by a local agency or school*
29 *district will be incurred because this act creates a new crime or*
30 *infraction, eliminates a crime or infraction, or changes the penalty*
31 *for a crime or infraction, within the meaning of Section 17556 of*
32 *the Government Code, or changes the definition of a crime within*
33 *the meaning of Section 6 of Article XIII B of the California*
34 *Constitution.*

35 ~~*SEC. 5.—*~~

36 *SEC. 7. The Legislature finds and declares that the provisions*
37 *of this act further the purposes of the Political Reform Act of 1974*
38 *within the meaning of subdivision (a) of Section 81012 of the*
39 *Government Code.*

40 ~~*SEC. 6.—*~~

1 *SEC. 8. Except as otherwise provided in Sections 4, 5, and 9*
2 *of this act, Sections 1, 1.5, 2, and 2.5 of this act shall become*
3 *operative on January 1, 2005.*

4 *SEC. 9. This act shall not become operative unless Assembly*
5 *Bill 1785 is enacted and takes effect on or before January 1, 2005.*

6 *SEC. 10. This act is an urgency statute necessary for the*
7 *immediate preservation of the public peace, health, or safety*
8 *within the meaning of Article IV of the Constitution and shall go*
9 *into immediate effect. The facts constituting the necessity are:*

10 *In order to prevent undue influence by lobbyists, lobbying*
11 *firms, and lobbyist employers on Members of the Legislature, it*
12 *is necessary that this bill go into immediate effect.*

